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15 **UNITED STATES DISTRICT COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA**  
17 **SAN FRANCISCO DIVISION**  
18

19 DAVID M. CATHCART, JAMES H.  
WHITEHEAD, ROBERT W. DECKER, DALE  
20 BALDISSERI, individually, and on behalf of all  
others similarly situated,

21 Plaintiff,

22 v.

23 SARA LEE CORPORATION, SARA LEE  
24 BAKERY GROUP, EARTHGRAINS BAKING  
COMPANIES, INC. (formerly sued as DOE 1)  
25 and DOES 2 through 20,

26 Defendants.  
27  
28

Case No. CV 09-5748 MMC

**STIPULATION FOR LEAVE TO  
MODIFY THE SCHEDULING ORDER  
TO EXTEND HEARING DATE AND  
MEDIATION CUT-OFF**

**~~PROPOSED~~ ORDER**

The Honorable Maxine M. Chesney

Complaint filed: December 8, 2009

1 The parties stipulate as set forth in the numbered paragraphs below, based on the  
 2 following facts:

- 3 A. The Scheduling Order (Dkt. No. 33) set initial deadlines in this case. The Order  
 4 scheduled, among other things, dates for briefing the parties' motions and cross-  
 5 motions for summary judgment on two affirmative defenses.
- 6 B. The parties have stipulated to extensions of those deadlines, most recently in order to  
 7 set a deadline for Plaintiffs' to file a reply on their cross-motion for summary  
 8 judgment, and to adjust the summary judgment hearing date and mediation cut-off  
 9 accordingly (*see* Dkt. No. 63).
- 10 C. However, conflicts for both parties have arisen with the current hearing and  
 11 mediation dates. The parties therefore seek a stipulation to continue the hearing on  
 12 the motions for partial summary judgment by one week to November 4, 2011. In  
 13 addition, the parties believe a successful mediation depends on a ruling on the  
 14 summary judgment motions. Thus, the parties also propose a brief, final continuation  
 15 of the mediation cut-off deadline, from November 18 to December 21, 2011. The  
 16 parties have agreed to hold the mediation on any of the following dates available for  
 17 the mediator, pending the Court's approval of this stipulation: November 21, 22 or  
 18 December 5, 9, 13, 14, 19 or 20, 2011.

19 **D. The current deadlines are as follows:**

- 20 a. Hearing on above motion and cross-motion: October 28, 2011, 9:00 a.m.
- 21 b. Deadline to complete mediation November 18, 2011
- 22 E. Note that the discovery and motion deadlines have previously been continued by  
 23 stipulated order (see Docket Nos. 35, 44, 52, 56, 58, 60, and 63). The deadline to  
 24 complete mediation has also been continued by stipulated order, to fall after the  
 25 hearing on the parties' motions for summary judgment (see Docket Nos. 54, 58, 60,  
 26 and 63).
- 27 F. Note also that the deadline for Plaintiffs to file a motion for class certification is not  
 28 until March 23, 2012. The hearing on the motion for class certification is scheduled

1 for July 20, 2012. There is no trial date scheduled, but after the hearing on the motion  
2 for class certification, a Case Management Conference is scheduled for August 31,  
3 2012. This stipulation does not seek to move those dates.

4 WHEREFORE, THE PARTIES STIPULATE and request that the Court order that the  
5 Scheduling Order (Docket No. 33) be modified to reflect the deadlines listed below:

6 1. Hearing on partial motions for summary judgment:

7 Continue from October 28, 2011 to November 4, 2011.

8 2. Deadline to complete mediation:

9 Continue from November 18, 2011 to December 21, 2011.

10 In compliance with General Order No. 45 (X), as filing party, Defendants attest that all  
11 signatories below concur in the filing of this document.

12 DATED: September 21, 2011

MAYER BROWN LLP  
JOHN NADOLENCO  
JEROME JAUFFRET  
KRISTEN ROWSE

15 BY: /s/ John Nadolenco  
John Nadolenco  
16 Attorneys for Defendants  
17 SARA LEE CORPORATION, SARA LEE  
18 BAKERY GROUP and EARTHGRAINS  
BAKING COMPANIES, INC.

19 DATED: September 21, 2011

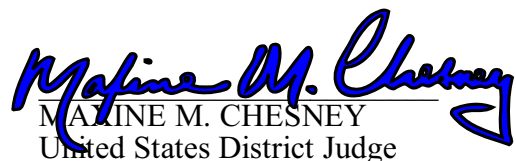
SPIRO MOSS LLP

20 BY: /s/ Ira Spiro  
21 Attorneys for Plaintiffs

22  
23 ~~PROPOSED~~ ORDER

24 SO ORDERED as stated in paragraphs 1 and 2 above.

25  
26 DATED: September 23, 2011

27   
MAXINE M. CHESNEY  
United States District Judge